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Lac du Flambeau members convicted of illegally spearing 126 walleyes May 4

State, tribe not releasing key fish data; DNR stonewalling

BY DOUG ETTEN
NEWS-REVIEW STAFF

Three members of the Lac du Flambeau Tribe (LDF) were convicted recently after illegally spearing 126 walleyes on Squirrel Lake west of Minocqua this past May.

Though reports spell out much of what happened, details surrounding the case continue to be squashed by officials, bringing questions of accountability, release of information, collection and lack of biological data, and tribal spearing practices.

Tribal members Karl

Joseph Theobald, 20, Nicholas Lee Zortman, 29 and Charles Stanley Burgess, 20, were jointly prosecuted and convicted in their respective tribal court after pleading not guilty to charges of possession of a spear without a permit, exceeding the bag limit, failure to use a designated landing, resisting or obstructing a conservation warden and failure to report catch.

These charges along with one more in Oneida County Circuit Court for obstruct-

ing an officer all spanned from events that took place the night of May 4 when the three individuals were caught by wardens while returning to a remote access boat launch in the town of Minocqua.

While the Tribe did not release the names of the individuals, a list of charges (not convictions) were provided.

The Tribe also said two of the unpermitted spears were issued 10 conservation citations each, and the third received 11. All three of the spears were found guilty of all but one of the citations issued against them, according to a statement released by LDF officials.

The Tribe did not say which of the charges the individuals were acquitted of, nor have they released any details

to the amount of the fines or forfeitures or regulations guiding the legal spears who were also on the water that evening practicing their off-reservation treaty rights.

Following the incident, and after being questioned more than two weeks after, LDF officials first issued a statement acknowledging their tribal members were the cause of an overharvest, but said nothing about it possibly being due to illegal spearing. And while they acknowledged the incident on Squirrel Lake, they did not mention the overharvest May 3 on Dam Lake in Oneida County.

"Exceeding lake harvest limits is unacceptable, which is why we have monitoring

To SPEARING, Pg. 7A



Dozens of speared walleye lay on the floor and in compartments on a boat registered to Wallace Christensen. The walleyes were some of the 126 that were illegally speared by Lac du Flambeau tribal members Karl Theobald, Nicolas Zortman and Charles S. Burgess, May 4 on Squirrel Lake. —Contributed Photo



FIRE PREPAREDNESS — Mike Dreger of the Eagle River Fire Department toured local schools last week providing outreach to students as part of Fire Prevention Week. Fifth-grade students at

Eagle River Elementary practiced using a fire extinguisher after an indoor training seminar.

—Staff Photo By STEPHANIE DYE

Humane society board responds to allegations of abuse, neglect

BY SARA CARIAS
ASST. EDITOR

The Humane Society of Vilas County (HSVC), an organization once built in harmony and with great community involvement, has come under attack in recent months, including two recent organized protests, and its leadership asserts the allegations of animal abuse, neglect and misconduct are unequivocally not true.

HSVC's Board of Directors said recently they are perplexed and concerned as to how these allegations and complaints continue to circulate and seemingly gain traction, with no criminal complaints filed.

"Why don't they file a complaint?" asked Melissa McDonald, HSVC executive director and board pres-

ident. "All these complaints are terrible allegations against us, yet, where is the criminal report?"

Former volunteers have alleged specific instances where animals were allegedly abused and neglected by McDonald, who has served HSVC in different capacities since 2007. Complaints made about HSVC and McDonald have been limited, but they stem back well over a decade.

Allegations include physical abuse, lack of water, unsanitary conditions and insufficient medical care.

As previously reported in the News-Review, former volunteer Joe Power volunteered nearly every day for about a year at the humane society until July 8 when he was forced to leave the premises by Vilas County Sheriff's deputies due to a verbal altercation between him and McDonald.

"I got involved with the humane society because of my love for animals."

MELISSA McDONALD
HSVC Executive Director and Board President

Power then attempted to file a criminal complaint about what he observed at the humane society with the sheriff's office that day, as well as a few days later, and Power said both times he was denied the chance to make the complaint.

Sheriff Joe Fath subsequently said he was willing to meet with Power and take his complaint. To date, Power has not met with Fath to give his complaint nor has the board received any written communication from him detailing his allegations or concerns.

Power also alleges there is a concerted effort to keep the public eye out of what goes on at HSVC.

According to McDonald, she has never abused or neglected an animal. She also said neither herself nor anyone on the board is trying to hide anything because they are not doing anything wrong.

The current HSVC board consists of McDonald; Sandra Lemmer, vice president; and members Theresa "Terri" Sherman, Carl "Skip" Arm-

To HSVC, Pg. 3A

Dear Reader:

Only you can save America's newspapers

BY KURT KRUEGER
NEWS-REVIEW PUBLISHER

The community newspapers that are integral to life in America, the Republic form of democracy and the last frontier of truly local news coverage can only survive if the masses, the public, choose to subscribe.

It is you, the reader, who wields that power because your collective subscriptions are the total answer — our lifeline.

Our subscriber base and newsstand sales, you see, comprise the circulation that enables us to sell hundreds of thousands of dollars in advertising each year. It is that loyal readership by consumers that allows us to market effective advertising to hundreds of local business owners, organizations and other commercial entities.

That's why we've authored this front-page message and are sample copying thousands of non-subscribers this week in Eagle River, Three Lakes and St. Germain, because we need your help. We need more weekly newspaper readers, supporters, to ensure that our mission continues for decades to come.

The residents of Conover, Phelps, Land O' Lakes and other communities will be next, at another time.

Nobody else is positioned to cover local sports teams, city hall, county government, municipal boards, nonprofit efforts, community organizations and everything else that is featured on our news pages week after week.

We've done that reporting in an award-winning way for several decades now, winning numerous state and national honors that include General Excellence, Community Service, Best Photos, Spot News, Best Special Sections, Best Columns and a host of others.

Tragically, thousands of towns and villages in this country have lost their community newspaper in the

past 20 years. And pretty much once they are gone, they can't be revived.

The gathering of local news is a costly venture yet it is vital to maintaining a public forum where we can discuss political differences, new ideas, government spending and solutions to the most pressing issues faces our communities.

And so we are soliciting your help this week, asking more of you to think about the significance of having a weekly newspaper that runs the public notices from government, sponsors a Warm The Children program, supports organizations such as Feed Our Rural Kids (FORK), details the holiday church schedule, publishes the honor roll, covers local sports and events, and so much more.

This newspaper is where you'll find photos of our students and athletes — your children and grandchildren. It's where you'll read about people's accomplishments, their unique stories, breaking news, victories, struggles and sometimes tragedy. It's where you'll find notices and news of all kinds, from birth to death.

We need more subscribers, more weekly readers, whether you do that in print or online. A print subscription will get you free access to our website and our e-edition of the newspaper at no extra charge.

Today we recall the words of Thomas Jefferson, principle author of the Declaration of Independence and one of the most respected founding fathers, who once wrote: "Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."

We look forward to serving you!

NEWS

Spearing: Flambeau trio fined for illegally taking 126 walleyes

FROM PAGE 1A

and enforcement mechanisms in place to capture this information to preserve and protect fish populations," said Tribal President John D. Johnson Sr. "These reports demonstrate that the safeguards we have in place are working to alert us to what's happening on lakes."

To date, neither the Tribe, Great Lakes Indian Fish & Wildlife Commission (GLIFWC) nor the Department of Natural Resources (DNR) have clarified or provided information that would allow a determination as to whether illegal activity was the sole cause of the overharvests.

The tribe, however, did release more information last week after being questioned directly about the Squirrel Lake incident, and after it was reported to the Tribe the DNR had released information about the May 4 incident.

"The vast majority of spears respect the regulations and requirements related to spearing activities to help support efforts by the Tribe to protect precious natural resources for future generations," Johnson said. "However, just as in every walk of life, there are a handful of individuals who choose to disregard the established rules and expectations."

The statement last week also said 115 fish were speared illegally and confiscated, however that number did not coincide with data released by the DNR. When questioned about the different number the tribal attorney, who was not identified, said she contacted the GLIFWC warden in charge of the investigation to get more information.

"There actually were 126 fish illegally speared on Squirrel Lake by the three defendants on the evening of May 4th," the attorney said. "115 were within the legal size limits (if they had had permits), and the other 11 were over the size limit. Restitution was ordered on all of the fish, but in separate cumulative amounts, based upon the infraction (115 over the bag limit and 11 over the size limit - we couldn't charge double restitution on the 11 oversize fish). I apologize for the confusion, and for forgetting to include the 11 oversize fish in the total number."

The Tribe said the defendants were ordered to pay fines, and their off-reservation hunting and fishing rights were suspended until their fines are paid in full. She said the defendants were also ordered to pay restitution for the 126 fish that they speared illegally.

Following the night of May 4, the DNR provided a report that showed a total of 21 permits were distributed to spears on Squirrel Lake. Twenty of those permits were for 20 walleyes each while the other was for 13, meaning the group of 21 spears were allowed to legally harvest 413 walleyes that night.

That same report detailed the number of fish harvested to be 534, which was 121 fish over the assigned quota for the lake.

Misleading reports

Another report received from the DNR this September was a detailed biological survey of the fish that were measured and had a sex identified, if possible. A total of 408 fish were detailed in that report with a length, but also included was a "sub-sample" of 126 fish which according to DNR Communications Director Sarah Hoye, were harvested that night but not measured or sexed.

"The spreadsheet includes 534 walleye harvested on May 4, of which 408 were measured and sexed, and 126 of which were simply counted (no gender or length recorded)," said Hoye. "This is acceptable within the requirements of tribal harvest monitoring which allows sub-sampling of

fish when large numbers are coming into a creel crew. To ensure compliance with the 'big fish rule' any walleye that appears to approach or exceed 20-inches must be measured even when fish are being sub-sampled."

However, Hoye's Sept. 16 statement was not true as a May 23 report by DNR Warden Audrey Royce clearly stated she and other conservation wardens on scene "counted, measured, sexed, and documented the illegally harvested walleye."

Though each of the fish were measured and sexed for prosecution purposes by DNR wardens, the DNR, GLIFWC and the Tribe have yet to release the size of the fish or whether they were male, female or unknown sex according to the DNR — though data for all legally speared fish on off-reservation lakes is considered open record.

More details of the events of May 4 came to light following a Sept. 19 open records request to the DNR, seeking information regarding possible illegal spearing activity on Squirrel Lake after it was reported by Hoye that there was an overharvest of 121 walleyes by the LDF tribe.

The overharvest was the second incident in as many nights where spears for the LDF tribe speared too many walleyes as LDF also speared 47 walleyes over their quota on Dam Lake in Oneida County, May 3. Hoye at the time did not indicate there was foul play in either incident, however, due to the fact all three of the individuals were issued citations for obstruction by Minocqua Police, events from the evening of May 4 became more clear.

A police report by Minocqua police officer Devon Gaszak detailed events of the evening, and also eluded that more information may be available in reports by DNR wardens who responded to the scene.

Incident details

Reports from DNR wardens Audrey Royce and Tim Ebert, who responded to the scene along with law enforcement from GLIFWC, Tribal police, Vilas County Sheriff's Office and Woodruff Police, detailed the nights events.

Royce said in her report that at approximately 9:30 p.m. on the night of May 4, Warden Ebert contacted her via phone and stated that GLIFWC wardens had received notification from legally permitted spears on Squirrel Lake that there was an extra boat on the water that was not permitted to spear.

She said that in conversations with Warden Riley Brooks she became aware that off-reservation spearing permits had been issued for Squirrel Lake on this night, however all permits are required to use the designated boat launch on Kobart Road.

The landing being used by Theobald, Zortman and Burgess was located at the end of Blackhawk Trail and is an unimproved landing that normally receives minimal use. The Lac du Flambeau Reservation Boundary is about 5-10 feet north of this access, according to the DNR.

Warden Ebert advised Royce at that time that he and GLIFWC Warden Brooks had located a vehicle at a landing on Blackhawk Trail which they believed was connected with Zortman as the license plate was registered to Zortman's mother, who resides in Arbor Vitae. Warden Ebert also advised that Zortman had been cited numerous times in the past by GLIFWC and DNR for illegal harvest violations, and typically speared with Theobald.

Royce responded and was stationed at a boat landing off of Arnold Stock Rd. Warden Ebert and GLIFWC Warden Brooks were stationed together at the unimproved lake access



Wardens with the Wisconsin DNR and GLIFWC show the seized boat, equipment and 126 walleyes after investigating a case on Squirrel Lake, May 4. From left are DNR Wardens Tim Ebert,

Audrey Royce, Matt Meade, GLIFWC Warden Jonas Moermond, DNR Warden Tim Price and GLIFWC Warden Riley Brooks. —Contributed Photo

point at the end of Blackhawk Trail, approximately one-half mile north of Royce's location.

As Wardens Brooks and Ebert waited on a dock near the end of Blackhawk Trail, GLIFWC Warden Jonas Moermond was along the east shore of the lake near the boat launch on Carter Road. At that time he informed both Ebert and Brooks that he was observing a boat engaged in fish spearing just south of his location.

Warden Moermond stated he visually identified the individual doing the spearing as Theobald, wearing blue jeans, a white plaid flannel, and a white hard hat. Warden Moermond stated there were two others in the boat, but he couldn't identify them. Warden Moermond continued to advise that he observed the boat go out near the large island and "go dark", then proceed north on the lake "blacked out", or operate without any lights.

It was about 10:45 p.m. when Royce also got a visual on the boat and observed it operating on plane with no lights. The boat continued north. A short time later the boat slowed down as it was nearing the landing where both Ebert and Brooks were waiting. Royce also headed in that direction.

"As boat approached, Warden Brooks and I were in front of the truck to avoid being seen," Ebert said in his report. "When one or two of the occupants had exited the boat and on shore, Warden Brooks stepped out from in front of the truck. I was right behind him. Warden Brooks and I verbally identified ourselves as wardens."

An altercation ensued which at separate times led to both both Warden Brooks and Warden Royce to draw their tasers on Zortman.

It was also noted that after coming ashore, both Theobald and Burgess tried to get back into the boat and push away from the pier, but Warden Brooks grabbed a hold of the boat preventing them from leaving.

"From my perspective it appeared that while Warden Brooks was attempting to hold the boat, Theobald and Burgess were trying to push away," said Ebert. "I told Theobald and Burgess they were detained, and if they left they would go to jail."

Royce was able to convince both Theobald and Burgess to get out of the boat and come up the embankment toward the other officers.

After more law enforcement arrived, Warden Brooks stated that he was seizing the boat and everything in it. Theobald continued to resist and refused to listen to commands which led to him being detained and removed from the scene by

Officer Gaszak. After the boat trailer had been disconnected from the vehicle, Zortman and Burgess were released and left the scene.

Wardens Ebert, Royce, Brooks, Moermond, Matt Meade and Tim Price each assisted with removal of the boat from the water.

Warden Brooks transported the boat to a GLIFWC storage building where wardens counted, measured, sexed and documented the 126 illegally harvested walleye. According to the DNR report all evidence was seized, inventoried and maintained by GLIFWC. According to the Tribe, all illegally speared fish were distributed to tribal elders in need.

Unanswered questions

According to a report from Hoye, the Lac du Flambeau tribe was issued a total of 21 permits to take 413 walleyes. It said 534 were harvested, which was 121 fish over the assigned quota for the lake.

There still has been no indication by the DNR or GLIFWC whether the illegally speared fish were part of the 534 count, or if those fish were above and beyond the counted total.

Neither the DNR, Tribe nor GLIFWC have clarified what size of fish are able to be harvested with each permit.

In follow-up emails requesting verification of more information, Hoye directed all

communications in regards to the possible illegal activity go through GLIFWC and their Communications Director Charlie Rasmussen.

Rasmussen said in a phone interview that it was both a "professional courtesy and protocol" for information in regards to the case to come directly from the LDF tribe or prosecuting attorney. Numerous calls and messages to the prosecution and tribal court system went unanswered, including requests from Rasmussen himself, he said.

According to DNR officials, it's not uncommon for biological data of tribal harvest to be reported in a "subsample." However, there was no indication by either GLIFWC or Hoye if that data would eventually become available for the DNR's ceded territory management team that works with GLIFWC to survey and record all tribal harvest data — aiding fisheries management.

Hoye said subsampling is "acceptable within the requirements of tribal harvest monitoring which allows subsampling of fish when large numbers are coming into a creel crew," she said. "To ensure compliance with the 'big fish rule' any walleye that appears to approach or exceed 20-inches must be measured even when fish are being sub-sampled."

Followup emails to the DNR asked again whether

there was data for the fish that were illegally speared, to which Hoye said the DNR could not release the size or sex of the fish that were harvested illegally because there weren't in possession of that data. When asked again a week later she said, "as this is a potential tribal enforcement case, please reach out to GLIFWC directly regarding your inquiry."

In speaking with GLIFWC Chief Warden Adam McGeshick, he said not only is the criminal report not able to be released by GLIFWC, but neither is the biological data of the fish illegally harvested. McGeshick claimed Tribal sovereignty, though also said the LDF tribe could release it if they chose to.

Royce did indicate in her report that she and other DNR wardens physically counted, measured, sexed and documented the 126 illegally harvested walleye.

The illegal spearing and overharvest on Squirrel Lake was the second incident in two days in the same county, by the same tribe as Lac du Flambeau also over-speared Dam Lake on the Sugar Camp Chain by 47 fish on May 3.

There were no reports of illegal activity according to Hoye, although there were two more spears on Dam Lake that night than were permits available, following the same trend of what was reported on Squirrel Lake May 4.

PLEASE WELCOME

Ashley Hilbrand, MD- Family Medicine Physician



Board-Certified Family Practice Physician seeing patients across the lifespan. Dr. Hilbrand provides a wide range of care to her patients. She offers preventative care along with the diagnosis and treatment of a vast array of conditions and diseases.

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